

JPA File No.: 07-142 I  
AG Contract No.: P001 2008 000690  
Project: Street widening  
Section: Central Street (Hwy 377),  
Mohave Avenue to Cooke Avenue  
**TRACS No.:** HF154 01C  
**Budget Source Item No.:** HURF

## INTERGOVERNMENTAL AGREEMENT

BETWEEN  
THE STATE OF ARIZONA  
AND  
TOWN OF COLORADO CITY

**THIS AGREEMENT** is entered into this date March 10<sup>th</sup>, 2008, pursuant to the Arizona Revised Statutes § 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the TOWN OF COLORADO CITY, acting by and through its MAYOR and TOWN COUNCIL the ("Town"). The State and the Town are collectively referred to as "Parties".

### I. RECITALS


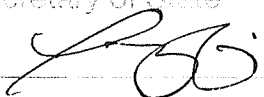
1. The State is empowered by Arizona Revised Statutes § 28-334 and § 28-401 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.

2. The Town is empowered by Arizona Revised Statutes § 9-240 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the Town.

3. The State has approved the exchange of Highway User Revenue Funds (HURF) pursuant to the amounts and schedule shown in column D of the table below for widening of Central St., from 2 lanes to 3 lanes for 0.12 miles, from Mohave Avenue to Warren Avenue, including drainage improvements, hereinafter referred to as the "Project." Such funds shall be repaid to the State by withholding from the Western Arizona Council of Governments (WACOG) Federal Apportionment and corresponding Obligation Authority as shown in column B and C in the table below. All such transactions to be made in accordance with the schedule shown in column A.

**THEREFORE**, in consideration of the mutual covenants expressed herein, it is agreed as follows:

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NO. 29749  
Filed with the Secretary of State  
Date Filed: 3-10-08  
  
Secretary of State  
By: 

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>
Federal Fiscal Year to be Processed	STP Apportionment to be Charged to WACOG	STP Obligation Authority to be Charged to WACOG	90 %HURF Funds to be Transferred to Town
<b><u>Construction</u></b>			
FFY 2008	\$472,469	\$428,054	\$385,249
<b>Total</b>	<b>\$472,469</b>	<b>\$428,054</b>	<b>\$385,249</b>

## **II. SCOPE OF WORK**

### 1. The Town will:

a. Provide design plans, specifications and other such documents and services required for construction bidding and construction of the widening of Central St., from 2 lanes to 3 lanes for 0.12miles, from Mohave Avenue to Warren Avenue, *including drainage improvements*, to the State prior to advertisement of the Project.

b. After the Town receives notification from the State that the project qualifies for a HURF exchange, advertise for bids and award one or more construction contracts for the Project. Administer contracts for the project and make all payments to the contractor(s). Be responsible for any contractor claims for extra compensation due to delays or whatever reason attributable to the Town. Comply with all applicable State Laws, Rules and Regulations.

c. Invoice the State for thirty percent (30%) of the total programmed HURF funds found above in Column D upon award of the construction. Total payment by the State to the Town shall not exceed the amounts shown in column D above for the Federal Fiscal Year 2008 in which the billing is made.

d. Invoice the State for an additional thirty percent (30%) of the total programmed HURF funds when the Project reaches the thirty percent (30%) completion stage. Total payments by the State to the Town shall not exceed the amounts shown in column D above for the Federal Fiscal Year 2008 in which the billing is made, plus any carryover amounts not previously paid in prior years.

e. Invoice the State for an additional thirty percent (30%) of the total programmed HURF funds when the Project reaches the sixty percent (60%) completion stage. Total payments by the State to the Town shall not exceed the amounts shown in column D above for the Federal Fiscal Year 2008 in which the billing is made, plus any carryover amounts not previously paid in prior years.

f. Upon satisfactory completion of construction, approve and accept the Project on behalf of the Town and at its own expense, provide for maintenance. After the final close out Field Review, provide the State with a letter documenting the notice of the approval and acceptance of the project.

g. Prior to invoicing the State for the remaining ten percent (10%) of the Project costs, coordinate with the State on a final field inspection to make certain the Project has been satisfactorily completed and accepted by the Town. Total payments by the State to the Town shall not exceed the amounts shown in column D above for the Federal Fiscal Year 2008 in which the billing is made, plus any carryover amounts not previously paid in prior years.

2. The State will:

a. Verify the design plan and specifications provided by the Town to determine whether or not the work and location meet the requirements for HURF exchange, through its Local Government Section. If the requirements for HURF exchange are not met, then this Agreement will terminate. The Local Government Section will notify the Town of its decision regarding qualification for HURF exchange.

b. Charge WACOG STP Apportionment in the amount of \$472,469.00 and WACOG Obligation Authority in the amount of \$428,054.00 for the widening of Central St., from 2 lanes to 3 lanes for 0.12 miles, from Mohave Avenue to Warren Avenue, including drainage improvements.

c. Within thirty-days (30) after receipt and approval of invoices at construction award, and also the thirty (30%) and sixty percent (60%) construction completion stages, advance the Town HURF funds in the amount of 30% at each invoiced stage of construction.

d. Coordinate with the Town on a final field inspection to make certain the Project has been satisfactorily completed and accepted by the Town. Within 30 days after receipt and approval of the final invoice, remit to the Town HURF Funds or the remaining ten percent (10%) of \$385,249.00 for the widening of Central St., from 2 lanes to 3 lanes for 0.12 miles, from Mohave Avenue to Warren Avenue, including drainage improvements.

### **III. MISCELLANEOUS PROVISIONS**

1. The terms, conditions and provisions of this Agreement shall remain in full force and effect until completion of said project, except any provisions for maintenance shall be perpetual, unless assumed by another competent entity. Further, this Agreement may be canceled at any time prior to the award of the project construction contract, upon 30 days written notice to the other party, or terminated immediately if the State does not approve the Project for HURF exchange. It is understood and agreed that in the event the Town cancels this Agreement, the State shall in no way be obligated to maintain said project, which said obligations shall survive any termination of this Agreement.

2. The State assumes no financial obligation or liability under this Agreement, or for any resulting construction Project. The Town assumes full responsibility for the design, plans, specifications, reports, the engineering in connection therewith and the construction of the improvements contemplated, cost over-runs and construction claims. The Town shall require its contractors to name the State and ADOT as an additional insured in the contractor's policies. The Town shall also require its contractors to name the State and ADOT as an additional indemnitee in the Town's contracts with its contractors. It is understood and agreed that the State's participation is confined solely to advancing Highway User Revenue Funds; that any damages arising from carrying out, in any respect, the terms of this Agreement or any modification thereof, shall be solely the liability of the Town and that to the extent permitted by law the Town hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, misrepresentation, directives, instruction or event arising out of the performance or nonperformance of any provisions of this Agreement by the State, any of its departments, agencies, officers and employees, the Town, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, and expenses of litigation and attorneys' fees.

3. This Agreement shall become effective upon filing with the Secretary of State.

4. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.

5. The provisions of Arizona Revised Statutes § 35-214 are applicable to this Agreement.

6. In the event of any controversy, which may arise out of this Agreement, the Parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

7. This Agreement is subject to all applicable provisions of the Americans with Disability Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable Federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

8. Non-Availability of Funds: Every payment obligation of the State under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligations. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments as a result of termination under this paragraph.

9. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail, addressed as follows:

Arizona Department of Transportation  
Joint Project Administration  
205 S. 17<sup>th</sup> Avenue, Mail Drop 616E  
Phoenix, Arizona 85007  
(602) 712-7525  
(602) 712-7424 Fax

Town of Colorado City  
Attn: Town Clerk  
25 S. Central Street  
Colorado City, Arizona 86021  
(928) 875-2646  
(928) 875-2778 Fax

10. In accordance with Arizona Revised Statutes § 11-952 (D) attached hereto and incorporated herein is the written determination of each party's legal counsel and that the parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

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**IN WITNESS WHEREOF**, the Parties have executed this Agreement the day and year first above written.

**TOWN OF COLORADO CITY**

By Terrill Johnson  
TERRILL JOHNSON  
Mayor

**STATE OF ARIZONA**

Department of Transportation

By Dale Buskirk  
DALE BUSKIRK  
Division Director

ATTEST:

By Vance Barlow  
VANCE BARLOW  
Town Clerk



G:\Colorado City HURF Central St. widening  
Initial draft and PM comments 11/9/07 ghc  
Revisions by Town 1/23/08  
AG approved 1/31/08 ghc

**ATTORNEY APPROVAL FORM FOR THE TOWN OF COLORADO CITY**

I have reviewed the above referenced Intergovernmental Agreement between the State of Arizona, acting by and through its DEPARTMENT OF TRANSPORTATION, and the TOWN, an Agreement among public agencies which, has been reviewed pursuant to A.R.S. § 11-951 through § 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the TOWN under the laws of the State of Arizona.

No opinion is expressed as to the authority of the State to enter into this Agreement.

DATED this 5<sup>th</sup> day of February, 2008.

Michelle D'Andrea

Town Attorney

**RESOLUTION NO. 2008-02**

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF COLORADO CITY, ARIZONA, AUTHORIZING THE MAYOR TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH STATE OF ARIZONA, DEPARTMENT OF TRANSPORTATION FOR THE CENTRAL STREET RECONSTRUCTION PROJECT .

**WHEREAS**, The State is empowered by Arizona Revised Statutes 28-334 and 28-401 to enter into an Intergovernmental Agreement, and


**WHEREAS**, The Town is empowered by Arizona Revised Statutes 9-240 to enter into this agreement, and

**WHEREAS**, The State has approved the exchange of Highway User Revenue Funds (HURF) for reconstruction of Central Street from Mohave Avenue to Black Avenue, and

**WHEREAS**, the Town Council desires to enter into the attached Intergovernmental Agreement with the State of Arizona, acting by and through it Department of Transportation for the HURF project as described in the IGA,

**NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF COLORADO CITY, ARIZONA THAT** the Mayor is hereby authorized to execute on behalf of the Town of Colorado City, an Intergovernmental Agreement with the State of Arizona, acting by and through its Department of Transportation for Central Street Improvement Project.


**PASSED AND ADOPTED** by the Mayor and Council of the Town of Colorado City, Arizona, this 14<sup>th</sup> day of January, 2008.

  
Mayor

ATTEST:

  
Town Clerk



<p>TERRY GODDARD Attorney General</p>	  <p>OFFICE OF THE ATTORNEY GENERAL STATE OF ARIZONA</p>	<p>CIVIL DIVISION TRANSPORTATION SECTION Writer's Direct Line: 602.542.8855 Facsimile: 602.542.3646 E-mail: Susan Davis@azag.gov</p>
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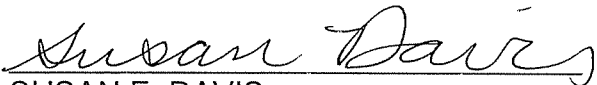
**INTERGOVERNMENTAL AGREEMENT**  
**DETERMINATION**

A.G. Contract No. P0012008000690 (**JPA 07-142 I**), an Agreement between public agencies, i.e., The State of Arizona and The Town of Colorado City, has been reviewed pursuant to A.R.S. § 11-951 through 11-954, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: March 4, 2008.

TERRY GODDARD  
Attorney General

  
 SUSAN E. DAVIS  
 Assistant Attorney General  
 Transportation Section

SED:smb:159009  
Attachment